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that the contents of a lost or destroyed will may be established by parol testimony, and when so established may be admitted to probate as the will of the deceased. See, in addition to the well-known cases of *Davis v. Sigourney*, 8 Met. 487, and *Sugden v. St. Leonards*, 1 P. D. 154, the recent and interesting case of *Tarbell v. Forbes*, 177 Mass. 238.

The citation of cases is, professedly, not exhaustive (Preface, p. vi). It would nevertheless seem that all leading cases, such for example as those just cited, require notice. It also seems surprising that in his discussion of proof of heirship by the records and decrees of probate courts, the author makes no reference whatever to so important a case as *Shores v. Hooper* (153 Mass. 228). Moreover, while on the subject of citation, the author's lack of uniformity in his mode of citing cases should be referred to. Some attempt is made at giving, in addition to the reference to the official reports, parallel references to the National Reporter System, the American State Reports, etc. Such parallel references, however, are not habitually, or even frequently, given. Often they are wholly omitted; sometimes they are given when a case is first cited and not given when the same case is again cited on a later page. Again, in his citation of decisions of the United States Supreme Court, this same lack of uniformity appears. Thus *Cincinnati v. White* is cited on pp. 43 and 44 as reported in 31 U. S. 431; on p. 267, as in 6 Peters 431. Other instances of the same sort could be given. Personally we prefer the latter form of citation, since we believe it is in more general use among the profession, and that the employment of a different form of citation simply confuses, annoys, and delays the practitioner. But at all events we feel certain that one form or other should be adopted by an author and consistently adhered to throughout his work.

The faults of this work, however, are small when compared with its real merits and practical value; and we have no desire to obscure the latter by a prolonged discussion of the former. A few misprints have been noticed, for the most part unimportant (see pp. 43, 391, 392; *Arnold v. Cheesborough*, cited on p. 413 as in 85 Fed., is reported in 58 Fed.) We have also noticed that neither *Stein v. Bowman*, cited on p. 428, nor *De Lane v. Moore*, cited on p. 417, is listed in the table of cases.

S. H. H.

A SUMMARY OF TORTS. By Frank A. Erwin. Second Edition, revised and enlarged. New York: Leslie J. Tompkins. 1906. pp. viii, 225. 8vo.

This book presents in brief and excellent form the general principles of the law of Torts. The industry and judgment of the author are apparent, not in the matter of the work, which is almost wholly non-original, but in the choice and arrangement of the material. Almost every statement is quoted *verbatim*, with appropriate quotation-marks and references, from decisions in leading cases or the commentaries of well-known authors. One might expect to find the effect thus produced fragmentary, and to be impressed by the absence of coherence and logical sequence; but so skillfully has Professor Erwin done his work as weaver and so aptly has he supplied the necessary links of connective and explanatory sentences, that the book is not only an orderly treatment of the leading topics in the law, but it is distinctly readable as well. The analysis follows that which has been commonly adopted in larger and more pretentious text-books: treating first the general considerations involved in all cases of tort, and taking up then the specific classes of wrongs *ex delicto* for which the law gives redress. The general discussion includes a statement of principles which might be grouped with equal or greater logic under other headings in the law, such as the rules governing the liability of a principal for acts of his agent, the fellow servant rule, the liability of corporations for torts *intra* and *ultra vires*, and the survivorship of actions for personal injuries; but these rules, though dependent upon principles not inherent in any theories of tort, are of such

frequent and necessary application in tort cases that their treatment in commentaries on the law of Torts is as reasonable and convenient as it is common. In the specific classes of cases discussed one finds the familiar headings of Assault, False Imprisonment, Libel and Slander, Deceit, Malicious Prosecution, Seduction, Trespass, Trover and Conversion, Nuisance and Negligence. The important related topics of Strikes and Boycotts and Interference with Contract Relations are, however, not considered, — an omission to be regretted because of the modern importance and intricacy of the problems which those topics present.

A distinguishing characteristic of Professor Erwin's book is the large proportion of citations from New York. Probably three quotations out of four are from opinions rendered by New York courts, inferior or of last resort. This feature must peculiarly adapt the book to use by students especially interested in New York law; but it will not necessarily impair its utility in other jurisdictions, since the decisions quoted are in most cases fair statements of principles recognized generally wherever the common law of Torts prevails. Moreover, conflict of authority on important points is indicated. New York statutory provisions are not infrequently specially referred to and stated, *e. g.*, the Employers' Liability Act and the provisions governing actions for death by wrongful act. It is fair to presume, though no express statement to that effect is made, that in preparing this manual Professor Erwin had chiefly in mind the needs of his classes in the New York University School of Law. To their purposes, and to the purposes of students similarly situated, the book is admirably adapted, especially when used in connection with lectures covering in more detail the subjects here broadly considered. For the practitioner it is of small practical service save to refresh his memory on elementary principles: there is no table of cases, and the citations are manifestly not designed to be either exhaustive or especially representative of all jurisdictions. As a concise statement of the common law rules for purposes of review by candidates for admission to the bar, the book may be distinctly commended.

In the interests of accuracy, and in view of the possibility of further editions, it may be noted that the statement on page 213, including Louisiana in the list of jurisdictions where the burden of proving the absence of contributory negligence rests upon the plaintiff, is incorrect. See *Buechner v. City of New Orleans*, 112 La. 599.

M. M. L.

A TREATISE ON THE LAW OF MUNICIPAL CORPORATIONS. By Howard S. Abbott. In three volumes. Volumes I and II. St. Paul: Keefe-Davidson Company. 1905, 1906. pp. xix, 1-965; xvi, 966-1797. 8vo.

In writing a book on the law of Municipal Corporations, an author necessarily challenges comparison with Judge Dillon's classic treatise; yet he is not to be considered unsuccessful if he fails to improve on it. To write a law book worthy to rank alongside Dillon is in itself an achievement worth the effort. Mr. Abbott is to be congratulated on having produced a book which, even if it does not supersede the older and better known work, may be used with satisfaction, and quoted with safety and assurance.

The division of the whole subject differs from the division made by Judge Dillon. The present author's division is logically planned and executed, and is on the whole clear and adequate; but there does not seem to be any conspicuous advantage in the new arrangement.

In his preface Mr. Abbott writes: "An effort has been made to state in the text, concisely and accurately, the general principles applicable to a stated question, and to give in the notes a reference to the cases, considering the subject under which they are cited, with in many instances an apt quotation from the decision of the court." This is certainly an admirable plan to have in mind in writing a law book, and for the most part the author seems to have lived up to it. Mr. Abbott has given us a real text: he has written a treatise and stated the theories underlying the various topics in the law of Municipal Corporations;